

**Introduced by Senator Karnette**

February 20, 2004

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An act to amend Section 5028 of the Penal Code, relating to corrections.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1608, as introduced, Karnette. Corrections: prisoners: foreign nationals.

Existing law requires that upon entry of any person who is an undocumented alien subject to deportation into a facility operated by the Department of Corrections, and at least every year thereafter, the Director of Corrections inform the person of his or her right to be transferred to his or her country of origin to serve the remainder of his or her prison term.

This bill delete the annual notification requirement, would expand these provisions to include all foreign nationals, and would provide the person the option to serve the remainder of his or her term in his or her nation of citizenship. The bill would also impose additional notification requirements upon the director, including notifying consulates or embassies and compliance with the 1963 Vienna Convention on Consular Relations Treaty. The bill would require the director to implement procedures to determine the citizenship of committed felons, and would require the department to provide specified information regarding these persons to the Governor for screening purposes related to potential transfers of these persons, as specified.

This bill would make other technical conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



*The people of the State of California do enact as follows:*

SECTION 1. Section 5028 of the Penal Code is amended to read:

5028. (a) Upon the entry of any person who is ~~an undocumented alien subject to deportation~~ *a foreign national* into a facility operated by the Department of Corrections, ~~and at least every year thereafter,~~ the Director of Corrections shall inform the person that he or she may apply to be transferred to serve the remainder of his or her prison term in his or her ~~country of origin~~ *nation of citizenship*. *The director shall inform the person that he or she may contact his or her consulate and shall ensure that if notification is requested, that the person's nearest consulate or embassy is notified without delay or his or her incarceration. If a foreign national with citizenship in a nation that requires mandatory notification according to the 1963 Vienna Convention on Consular Relations Treaty is received as a committed felon by the department, the director shall inform the consulate or that nation of the committed felon's incarceration without delay. The director shall inform the foreign national that the consulate has been notified. The director shall keep written records sufficient to show compliance with notification requirements. Semi-annually, the director shall provide to the appropriate foreign consulate a list of that nation's citizens who are incarcerated in department institutions.*

(b) *The director shall implement procedures to determine the citizenship of committed felons who are subject to subdivision (a). Documents that may be used in determining citizenship include, but are not limited to, the following:*

- (1) Citizenship documents.*
- (2) Court documents.*
- (3) Written statements from foreign consulates.*
- (4) Information from the Department of Justices' Criminal Identification and Information Unit.*
- (5) Birth Certificate.*
- (6) Prior parole records.*
- (7) Prior arrest records.*
- (8) Probation officer's report.*
- (9) Inmate's signed statements.*

(c) The Department of Corrections shall implement and maintain procedures to process applications for the transfer of prisoners to their ~~countries of origin~~ *nations of citizenship* under subdivision (a), and shall forward ~~the~~ *all* applications to the ~~Board of Prison Terms~~ *to the Governor or his or her designee* for appropriate action. *The department shall provide the following information to the Governor or his or her designee for screening transfer applications:*

*(1) Board of Prison Terms Foreign Prisoner Transfer Application.*

*(2) Name.*

*(3) Department of Corrections number.*

*(4) Date of birth.*

*(5) Place of birth.*

*(6) Nation of citizenship.*

*(d) The department shall provide the following information to the Governor or his or her designee when requested for those applications that pass screening criteria and are to be considered for approval:*

*(1) Cumulative case summary.*

*(2) Abstract of Judgment.*

*(3) Calculation of credit earned.*

*(4) Tuberculosis documentation.*

*(5) Most recent classification committee action.*

*(6) Restitution balance.*

*(7) Medical and psychological records.*

*(8) Disciplinary record.*

*(9) Pending court actions.*

*(10) Detainers.*

*(e) The department shall provide quarterly to the Governor or his or her designee, for the management of the Foreign Prisoner Transfer program, a list of foreign nationals with new prison commitments who are not on parole, including the following:*

*(1) Name.*

*(2) Date of birth.*

*(3) Nation of birth.*

*(4) Nation of citizenship.*

*(5) Department of Corrections number.*

*(6) Department of Corrections facility or location where the foreign national is located.*

1     (7) *Commitment offense.*

2     (8) *Sentence.*

3     (9) *Whether or not the foreign national is subject to a United*  
4 *States Bureau of Immigration and Customs Enforcement hold.*

5     (f) *The department shall provide facilities for the consent*  
6 *verification hearing for foreign nationals approved for transfer to*  
7 *their nation of citizenship and shall transport the inmate to the*  
8 *consent verification hearing to be taken into federal custody.*

9     ~~(e)~~

10    (g) The Department of Corrections may pay any foreign  
11 ~~country~~ *nation* to which an inmate is transferred under subdivision

12 (a) no more than two thousand dollars (\$2,000) from moneys  
13 appropriated by the Legislature for that purpose for every year that  
14 the inmate is imprisoned until he or she has completed the prison  
15 term which he or she began serving in this state.

